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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,404	11/10/2003	Satoshi Mizutani	20050/0200476-US0	4407
7278	7590	08/08/2005		
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER REICHLER, KARIN M	
			ART UNIT 3761	PAPER NUMBER

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/705,404	Applicant(s) MIZUTANI ET AL.	
	Examiner Karin M. Reichle	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 3-9, 11, 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 10 and 12-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. PCT/JP02/04885.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/04, 6/04, 11/04, 4/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of the layer configuration species of Figure 21, the minisheet configuration species of Figures 15 and 26, the package configuration species of Figure 18 and the pull-up body configuration species of Figures 1(a)-(b) in the reply filed on 6-13-05 is acknowledged.

2. Claims 3-9, 11 and 16-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6-13-05.

Specification

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

For Example:

Drawings

4. The drawings are objected to because Figure 2 should be labeled PRIOR ART. Cross-sectional lines, e.g. A-A' in Figure 8, should be denoted by Roman or Arabic numerals not letters. In Figure 12, the numeral 50 should denote the discontinuous part not the opening portion. Figure 17 is not a chart as described on page 18. The written text in the Figures should

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be avoided. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Description

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the abstract.

6. The abstract of the disclosure is objected to because the abstract should be limited to a single paragraph. Also terminology which can be inferred, e.g. "The invention relates to", and

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legal terminology, i.e. “comprises”, should be avoided. Correction is required. See MPEP § 608.01(b).

7. The disclosure is objected to because of the following informalities: The specification is replete with informalities. For example: 1) On page 3, line 22, “Disclosure of the invention” should be --Summary of the Invention--. 2) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention of the claims is not commensurate in scope, see MPEP 608.01(d). 3) What is 46b in Figures 3-4? What are the circled numerals 1 and 2 in Figure 17? 4) On page 19, line 26, “pad14” should be --pad 14--. 5) Where is a detailed description of each of the Figures set forth in The “Best Mode of Carrying Out the Invention Section”, e.g. Figures 31 and 34? 6) “Best Mode of Carrying Out the Invention” on page 19, line 20 should be --Detailed Description of the Invention--. The specification should be carefully reviewed and revised, as necessary, to overcome all the informalities. Applicant is thanked in advance for the cooperation in placing the specification in proper form.

Appropriate correction is required.

Claim Objections

8. Claims 1-2, 10 and 12-15 are objected to because of the following informalities: In claim 1, line 1, “,” should be --, for--. In claim 10, line 2, before “comprising”, --further-- should be inserted. The preamble of claim 15, a claim dependent from claim 1, is inconsistent with that of claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

On lines 7-8, the terminology “which directly...and” describing the finger insertion opening is unclear. Should such language merely be deleted? Note the following paragraph.

Claim Language Interpretation

10. The claim terminology is interpreted in light of the specific definitions on page 12, lines 6-17 page 12, lines 4-7 and the paragraph bridging pages 13-14 as best understood. Any other claim language not specifically defined, has been interpreted in view of the usual and common meaning of such, i.e. the dictionary definition.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-2 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown ‘875.

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Claims 1-2: See Figures, col. 1, lines 1-7, col. 2, line 8-col. 3, line 1, col. 3, lines 18-22 and 44-50, and the Claim Language Interpretation section *supra*, i.e. the cover sheet is at least a portion of 20, the support sheet is 22, the absorbent is 12 and the pull-up body is one of 24. The device 10 is received by the labia, i.e. is an interlabial pad.

Claims 12-14: These claims recite functions, properties or capabilities of the structure set forth in claim 1. If not already taught by the Brown, see the portions cited *supra*, the Brown reference at the very least teaches such structure of claim 1. Therefore there is sufficient factual evidence for one to conclude that such same structure of Brown also inherently includes such claimed functions, properties and capabilities, see MPEP 2112.01.

13. Claims 1-2 and 12-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Osborn '610.

Claims 1-2: See Figures 1-5 and 8-9, page 1, "Field of the Invention" section, page 3, first full paragraph, pages 6 and 7, second full paragraphs thereof, page 17, line 18-page 18, line 7 and page 21, lines 12-13 and the Claim Language Interpretation section *supra*, i.e. the cover sheet is 42, the support sheet is 38, the absorbent is 44 and the pull-up body is one of 52 or an extraction string or loop. The device 20 is an interlabial pad.

Claims 12-15: See the portions of Osborn cited *supra* as well as the paragraphs bridging pages 18-19 and 21-22.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 10 is rejected under 35 U.S.C. 103(a) as obvious over Osborn '610 in view of Wierlacher '096.

Applicant further claims a minisheet piece bonded to the support sheet to define a finger insertion opening therebetween, as best understood, see paragraph 9 supra. The Osborn reference teaches a tab 52 or string or loop for extraction of the interlabial device. It is unclear whether a tab 52a may be used for insertion in combination with a loop or string for extraction. Also Osborn teaches the pad can be inserted with a finger or fingers. See portions of Osborn cited supra. Therefore, Osborn does not, at the very least, teach a sheet as claimed, and, at most, such in combination with a pull up body. In either case, see Wierlacher '096 at page 17, line 30-page 21, line 3, i.e. handling aid for insertion/extraction can be one or more strings or strips, i.e. sheet bonded to a support sheet to define an opening therebetween, e.g. a finger loop, as claimed or a series of finger loops intended to allow insertion of at least one finger. Therefore, to make the insertion or/and extraction element, i.e. the tab or/and string or loop, of Osborn one or more minisheets as claimed would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Wierlacher. In so doing, if Osborn does teach a tab in combination with a string or loop, the prior art combination teaches at least one is a minisheet as claimed, i.e. the prior art combination teaches a minisheet and pull up body combination, or, in the alternative, if Osborn teaches only one of a tab, string or loop, the prior art combination teaches such can be a series of minisheets as claimed, i.e. one of the minisheets can be considered a pull-up body in combination with at least one other minisheet.

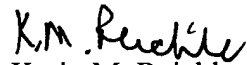
Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited prior art also show absorbent articles with pull-up bodies. It is noted that the 4-20-04 IDS and 4-5-05 IDS set forth that there are a total of 2 and 4 pages, respectively. However, only the first page, i.e. Sheet 1 of 2 or Sheet 1 of 4 was received in the application.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
July 27, 2005